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SUBJECT: Sri Lanka: Draft submission for 2002 Annual Human Rights Report

REF: STATE 151191

**¶1.** (U) THIS MESSAGE IS SENSITIVE BUT UNCLASSIFIED,  
PLEASE HANDLE ACCORDINGLY.

**¶2.** (SBU/NF) THE DRAFT TEXT FOR THE SRI LANKA ANNUAL HUMAN RIGHTS REPORT FOR 2002 FOLLOWS:

Begin Text:

Sri Lanka is a democratic republic with an active multiparty system. Constitutional power is shared between the popularly elected president and the 225-member Parliament. Violence, including at least 50 deaths, and irregularities marred the December 2001 Parliamentary elections in which the United National Front (UNF), a coalition of parties led by the United National Party (UNP), won a majority in Parliament for a 6-year term. Chandrika Kumaratunga, head of the People's Alliance (PA) coalition, won reelection in 1999 for a second 5-year presidential term in a process marked by voting irregularities and at least six election-related deaths. The Government generally respects constitutional provisions for an independent judiciary. Due to the peace process, Sri Lanka has experienced a dramatically improved atmosphere in 2002. One of the most visible signs of the new national climate was the profound and positive effect the peace process has had on the human rights situation. Beginning in December 2001, when the Government and the Liberation Tigers of Tamil Eelam (LTTE) announced unilateral ceasefires, the peace process has picked up considerable momentum. Key events included: in February 2002, the two sides signed a formal ceasefire accord; in April, a key road connecting Jaffna with the south was reopened; in September, taking into account the fast progress of the peace process, the government legalized the LTTE; and, also in September, the two sides held their first round of peace talks in Thailand. Among many other positive human rights-related developments, the peace process also led to a sharp reduction in roadblocks and checkpoints around the country, the return of approximately 150,000 Internally Displaced Persons (IDPs) to their points of origin in the north and east, and to the opening of numerous investigations into questionable actions by security force personnel.

During 2002, the Government also released over 750 Tamils held under the Prevention of Terrorism Act (PTA). Several of those released were part of the first Government-LTTE prisoner exchange in September. No arrests have been made under the PTA in 2002. Observers claim that the PTA, like the Emergency Regulations (ER) repealed in 2001, permitted arbitrary arrests of Tamils.

The past year was one of transition for the security forces from an organization actively engaged in an armed conflict to one taking part in a peace process. Although some incidents of human rights violations occurred during the year, the security forces generally respected the rights of others. Prior to the December 2001 unilateral ceasefires, the Government had fought the LTTE, a terrorist organization fighting for a separate ethnic Tamil state in the north and east of the country, for 18 years. The conflict claimed more than 64,000 lives. Major milestones in the conflict in the recent past included: In 2000, the LTTE began a buildup on the Jaffna Peninsula and captured the important Elephant Pass military base; in April 2001, government troops launched a major offensive on the Jaffna Peninsula that resulted in heavy casualties for its forces; and in July 2001, the LTTE attacked Colombo's main airbase and international airport, destroying numerous aircraft and placing civilians at the airport at serious risk.

The Ministry of Interior controls the 60,000-member police force, which is responsible for internal security in most areas of the country, and has been used in military operations against the LTTE. The Ministry of Defense controls the 120,000-member Army (which includes

the Army Volunteer Force), the 17,000-member Navy, and the 18,500 member Air Force. The more than 20,000 member Home Guards, an armed force drawn from local communities and responsible to the police, provide security for Muslim and Sinhalese village communities near LTTE-controlled areas. During the year, the Government implemented programs to disarm various anti-LTTE militias that previously had been linked with the security forces.

Sri Lanka is a low-income country with a market economy based mainly on the export of textiles, tea, rubber, coconuts, and gems. It also earns substantial foreign exchange from the repatriated earnings of citizens employed abroad, and from tourism. The gross domestic product (GDP) per capita is approximately \$837 (80,350 rupees). The population is approximately 18.5 million. Real GDP growth was -1.4 percent in 2001. Growth during the year is forecast at 2-3 percent. The decline in 2001 was attributed mainly to the worldwide economic downturn, the July LTTE attack on Colombo's international airport, and prolonged power outages throughout the country. The economy is expected to recover slowly in 2002, aided by economic reform and increased donor assistance.

The Government generally respected the human rights of its citizens in 2002, but there remained problems in some areas. Unlike previous years, there were no credible reports of security forces committing extrajudicial killings. The military and police, however, reportedly tortured detainees. There was at least one report of a death in custody and of a separate case of rape of a woman while she was in custody.

Torture remained a problem and prison conditions remained poor. There were no reports of arbitrary arrests. The Government infringed on citizens' privacy rights, but restrictions on the freedom of the press were eased somewhat. In 2001, the Government stopped censoring reporting on military and security operations. In previous years, the Government had stringent censorship regulations and on occasion security forces harassed journalists and shut down newspapers critical of the government. There were no reports of such harassment during the year. The LTTE permitted controlled access to uncleared areas of the country to journalists, in effect lifting some censorship in the areas it controls. Some LTTE-imposed restrictions remained on freedom of movement, such as from Vavuniya to Jaffna.

Violence and discrimination against women, child prostitution, child labor, and discrimination against persons with disabilities continued to be problems in Sri Lanka. Trafficking in women and children for the purpose of forced labor occurs, and there is some trafficking of women and children for the commercial sex industry. There is evidence of a continued though declining international interest in the country's children for sex trade. There is some discrimination and occasional violence against religious minorities, and institutionalized ethnic discrimination against Tamils remains a problem.

In the past few years, the Government has taken steps to address human rights concerns. In 2002 the Government named a new chairman for the National Human Rights Commission (HRC). In 2000, the Government established an Interministerial Permanent Standing Committee and an Interministerial Working Group on Human Rights Issues, chaired by senior officials, to investigate human rights abuses. At the same time, the Government established the Prosecution of Torture Perpetrators Unit, under the direct supervision of the Attorney General. Former Tamil terrorist organizations aligned with the former PA Government, who are suspected to still be armed have, in a departure from previous years, not been implicated in cases involving extrajudicial killing, and torture although incidents of detention, and extortion were still reported during the year.

The LTTE continued to commit serious human rights abuses even after entering into a formal ceasefire accord with the Government. The LTTE reportedly committed several extrajudicial killings, and was responsible for disappearances, torture, arbitrary arrest, detentions, and extortion. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna. On occasion, the LTTE prevented political and governmental activities from occurring in the north and east. The LTTE released all of the military personnel it reportedly had in its custody during the year. The LTTE continued to control large sections of the north and east of the country. The LTTE denied those under its control the right to change their government, infringed on privacy rights, did not provide for fair trials, used child soldiers, and discriminated against ethnic and religious minorities.

Section 1 Respect for the Integrity of the Person,  
Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Unlike in previous years, there were no credible reports of security forces committing extrajudicial killings. On July 19, 2001, government security forces killed two persons during an opposition party sponsored rally which the Government claimed was illegal (see Section 2.b.). On January 28, 2001, naval personnel arrested Kanapathypillai Udayakumar, a Tamil villager. The following day his body was returned to his family. The report on his killing states that he was strangled to death. The naval personnel accused in connection with his killing are in custody awaiting trial. On September 20, 2001, Sivagnanam Manohari, a Tamil living near Batticaloa, apparently was shot and killed by air force personnel while fishing. Her nephew, who was with her at the time, was injured seriously. No arrests have been made to date, but the incident is still under investigation.

The appearance of impunity remains a problem. Between April 1995 and December 2001, several hundred persons were killed extrajudicially by the security forces or have disappeared after being taken into security force custody. With the exception of the six security force personnel convicted in the 1996 killing of Krishanthi KumaraSwamy (a Tamil university student who was raped and then killed) there have been no other convictions for extrajudicial killings. Although there were numerous cases in which military personnel may have committed human rights violations for which they have not been identified, the Government has passed indictments against security force personnel in a number of high profile cases; including the Bindunuweva massacre and the Ranjani rape and murder case (see below).

In December 2000, nine Tamil civilians were reported missing in Mirusuvil after being arrested by the army (SLA). One person escaped, and reported the incident to police and the local magistrate. The escapee identified two SLA soldiers as the perpetrators, and the soldiers admitted to torturing nine civilians and murdering eight of them. The soldiers identified the place of burial and the bodies were exhumed. Nine soldiers later were arrested for the torture and killings. The army commander administratively punished the soldiers by having their salaries withheld (see Sections 1.b. and 1.c.). The case was transferred to the Anuradhapura Magistrate's Court for adjudication in November 2001. At the end of September 2002, a trial-at-bar was continuing with expectations that indictments would be issued prior to year's end.

In November 2000, four mutilated bodies were found in Nilaveli. The killings were widely believed to have been carried out by naval infantry personnel. The following day Tamil civilians protested against the deaths claiming that the naval personnel involved attempted to coerce statements from relatives of the deceased that the dead were members of the LTTE. Later, the bodies of the two primary organizers of the demonstration were found. The military investigated the incident. The commander of the local navy base and other key military personnel were transferred in June, but no one has been charged in connection with the killings. No further action is anticipated in this case.

In October 2000, while police allegedly looked on, 27 young Tamil males held at the Bindunuweva rehabilitation camp for former child soldiers, were killed by local villagers; 15 others were injured. Police allegedly took part in the killings and did nothing to prevent the villagers from entering the detention camp. Violence after the killings continued for almost one week before police were able to restore order. The HRC stated that the police were guilty of "grave dereliction of duty." Three of the survivors were able to testify at a Presidential Hearing, which met regularly throughout 2001. Many witnesses at the hearing criticized police actions at the scene and during the initial investigations. In 2001, all suspects in the case were released on bail. At year's end, 10 police officers and 41 villagers were indicted and were standing trial.

In April 2000, gunmen in police uniforms killed the chief suspect in the 1993 killing of prominent politician Lalith Athulathmudali. There have been no arrests in connection with this killing and at year's end none were expected.

In 2000, the government ordered payment of compensation to victims of a 1999 air force bombing that killed 22

civilians at Puthukkudiyiruppu.

In the past, some cases of extrajudicial killings were reprisals against civilians for LTTE attacks in which members of the security forces or civilians were killed or injured. In most cases, the security forces claimed that the victims were members of the LTTE, but human rights monitors believed otherwise. In Thampalakamam, near Trincomalee, in February 1998, police and home guards allegedly killed eight Tamil civilians, possibly in reprisal for the LTTE bombing of the Temple of the Tooth a week earlier. The Government arrested police officers and home guards, charging 4 with murder and 17 with unlawful assembly. At year's end 8 police officers had been indicted and hearings were ongoing.

Crucial safeguards built into the Emergency Regulations (ER) and the legislation establishing the HRC often were ignored in the past by the security forces, especially those provisions requiring receipts to be issued for arrests and ordering the security forces to notify the HRC of any arrest within 48 hours. Although security force personnel could have been fined or jailed for failure to comply with the ER, none was known to have been punished for this while the ER provisions were in place.

Although the courts in 2000 ordered five soldiers arrested for the 1999 gang rape and murder of Ida Carmelita, a young Tamil girl, the case remained pending at year's end. Various witnesses continued to testify at hearings held during the year. Court hearings continued in 2002.

At his sentencing for the 1998 rape and murder of Krishanthi Kumaraswamy, a Tamil university student, former Lance Corporal Somaratne Rajapakse claimed knowledge of mass graves at Chemmani in Jaffna containing the bodies of up to 400 persons killed by security forces in 1996. The other five defendants corroborated his claim of mass graves in the Chemmani area, where they allegedly had buried between 120 and 140 bodies on the orders of their superiors. Exhumations in 1999 yielded 15 skeletons. Two of the victims were identified as young men who had disappeared in 1996. In late 1999, the Government submitted its forensic report to a magistrate in Jaffna; the report stated that 10 of the remains showed signs of physical assault that led to their deaths and that physical assault leading to death of the others could not be ruled out. At the end of 2001, 13 of the bodies had not been identified. Rajapakse and others named a total of 20 security force personnel, including former policemen, as responsible for the killings. The remaining unidentified bodies underwent DNA testing for identification purposes. The Attorney General's office has indicated that it was not satisfied with the inconclusive initial results and is currently searching for funds to provide for a more detailed test. At year's end, the case was still pending. All suspects in the case have been released on bail.

The case against eight soldiers and one reserve police constable arrested in February 1996 in the massacre of 24 Tamil villagers in Kumarapuram came to trial in September 1997. In November 1998, six of the soldiers were charged with murder. The case continued throughout the year with the next court hearing scheduled for February 18, 2003. The case of 22 STF members arrested on suspicion of killing 23 Tamil youths at Bolgoda Lake in 1995 went to trial in June 2000. Three police officers have been indicted in connection with the murders, one of whom has fled. As of September 30, 2002, the main witness in the case was residing outside of Sri Lanka. The hearing continued at year's end.

The PA Government came to power in 1994 and promised to bring to justice the perpetrators of extrajudicial killings from previous years. In 1994, it began prosecutions in several extrajudicial killings allegedly committed by members of the security forces. The trial of 21 soldiers accused of massacring 35 Tamil civilians in 1992 in the village of Mailanthani in Batticaloa district was transferred to the Colombo High Court in 1996. A jury trial began in January 2002, and was still hearing testimony as of September 30, 2002. Many witnesses for the case live in displaced persons camps, and they could not come to court to give evidence.

In January 2000, assailants shot and killed Tamil politician Kumar Ponnambalam. Police detained four persons, two of whom alleged that a local businessman had hired them to commit the murder. The investigation into the murder has been completed and the information has been passed to the Attorney General. At the end of September, a court date was being considered for the case.

Although former terrorist Tamil militant groups armed by

and aligned with the former PA Government committed extrajudicial killings in the past, there were no credible reports of such killings in 2002.

In the past, the military wing of the People's Liberation Organization of Tamil Eelam (PLOTE) and the Razeek group were responsible for killing a number of persons. The security forces had armed and used these militias and a number of other Tamil militant organizations to provide information, to help identify LTTE terrorists, and, in some cases, to fight in military operations against the terrorists. The exact size of these militias is impossible to ascertain, but they probably total fewer than 2,000 persons. These groups were asked to disarm following the formal February ceasefire agreement between the Government and LTTE. The militia did hand over some weapons to the Government. Most observers, however, believe that the groups kept some arms. Persons killed by these militants in the past probably included LTTE operatives and civilians who failed to comply with extortion demands. Unknown assailants killed Jaffna media correspondent Mayilvaganam Nimalarajan in October 2000. Nimalarajan's outspoken criticism of paramilitary groups in Jaffna led many to believe that one of these groups killed him. No one has been prosecuted for his death. There have been unconfirmed reports that the LTTE continued to commit extrajudicial killings. Due to the inaccessibility of LTTE-controlled areas and the LTTE's prevention of investigations by outside agencies, the exact number and type of killings in LTTE-controlled areas is unknown. Observers believe that the amount of killings was drastically reduced last year. Attacks by the LTTE killed civilians outside of LTTE-controlled areas in the past. A civilian bus on the way to Trincomalee was bombed by the LTTE in August 2001, for example, and a trishaw was bombed outside of Jaffna in September 2001 (see Section 1.g.).

In 2001, attacks and counter-attacks between Government forces and the LTTE occurred almost daily. There were two suicide bombing attacks attributed to the LTTE during 2001, on September 15 and October 29, in addition to the July attack on the airport north of Colombo (see Section 1.g.). There were no reports of suicide bombings in 2002. There were reports that the LTTE committed extrajudicial killings, including lamppost killings in 2001. At least 14 persons found guilty of offenses by the LTTE's self-described courts were killed in 1999 by the LTTE in public executions; their bodies were tied to lampposts or otherwise left for public display. The LTTE has bombed civilian targets, killing and injuring civilians, and engaged in hostage taking and hijackings. (see Section 1.g.)

In March 1999, municipal workers uncovered a pit in Jaffna town that contained the skeletal remains of several persons. Forensic evidence suggested that these remains were approximately 10 years old. This discovery potentially implicated the Indian Peacekeeping Force (IPKF), which occupied Jaffna at the time. b.

#### Disappearance

Unlike previous years, there were no credible reports of disappearances at the hands of the security forces in Sri Lanka during 2002.

In 2001, the army, navy, police, and paramilitary groups were involved in as many as 10 disappearances, primarily in Vavuniya. Between January and September 2001, the Human Rights Commission received 44 reports of disappearances in Vavuniya alone. These cases were not confirmed. In December 2000, eight Tamil civilians were reported missing in Mirusuvil. Two SLA soldiers were identified as perpetrators and admitted to killing eight of the civilians. The soldiers were administratively punished by the army (see Sections 1.a. and 1.c.). In November 2001, the case was transferred to the Anuradhapura Magistrate's Court for adjudication. The soldiers have been indicted and a trial-at-bar was scheduled to begin by early 2003.

In February 2000, a fisherman seen arrested by naval personnel near Trincomalee disappeared. In 2002, the Trincomalee High Court ordered police line up, but the witness did not identify any of the suspects. At year's end, the High Court was conducting a habeas corpus hearing in conjunction with the case. Those who disappeared in 2001 and previous years are usually presumed dead. The 2000 U.N. Working Group on Enforced or Involuntary Disappearances lists the country as having an extremely large number of "nonclarified" disappearances. The Commander of the Army and the Inspector General of Police both have criticized the disappearances and stated that the perpetrators would be called to account. Although there have been few prosecutions of security force personnel to date, 2002 saw numerous indictments and investigations opened into cases which had previously

been ignored.

Three regional commissions were set up in November 1994 to inquire into disappearances that occurred from 1988 to 1994. The commissions found that 16,742 persons disappeared after having been removed involuntarily from their homes in most cases by security forces. Based on the reports, police created a Disappearances Investigations Unit (DIU) in 1998 to examine 1,681 cases in which the commissions had evidence against specific individuals.

In 1999, the Attorney General created a Missing Persons Commissions Unit to consider institution of criminal proceedings based on results of DIU investigations. In 2000, the Attorney General's office opened over 1,175 files and referred 262 indictments to the high courts and 86 complaints to magistrates involving 583 members of the security forces on abduction and murder charges. Hearings and trials in at least 250 of these cases had begun by late 2000. Of these, the Attorney General's office successfully prosecuted 4 cases by year's end. The Attorney General's office continued to prosecute these cases.

In 1998, a fourth commission was established to look into approximately 10,000 cases of disappearance that the initial three commissions had been unable to investigate. Human rights observers have criticized the Government for not extending the mandate of this commission to include cases of disappearance that occurred since the Kumaratunga Government took office in 1994. The commission submitted an interim report to President Kumaratunga in December 1999 and a final report in August 2000. The report has not been made public.

In 1999, the U.N. Working Group on Enforced or Involuntary Disappearances made its third visit to the country. Its report, released in December 1999 cited the Prevention of Terrorism Act (PTA) and ER as important factors contributing to disappearances and recommended the abolition or modification of these laws to bring them into conformity with internationally accepted human rights standards. The ER was repealed in 2001 and there were no arrests under the PTA last year. Criminal arrests were still being made without proper procedures, however.

In past years, Tamil militias aligned with the former PA government were responsible for disappearances in past years, although there were no reports during the last 2 years. These militias detained persons at various locations that served, in effect, as undeclared detention centers. The HRC had no mandate or authority to enforce respect for human rights among these militia groups. It was impossible to determine the exact number of victims because of the secrecy with which these groups operated. In early 2002, the Government took steps to disarm these militias while guaranteeing their safety as part of the peace process.

The LTTE was responsible for an undetermined number of civilian disappearances in the north and east during the year. Although the LTTE has previously denied taking any prisoners from its battles in January they released 10 Sri Lankans, including some soldiers, to the ICRC. On September 28 they exchanged a further 7 Sri Lankan soldiers for 13 of their cadre. At year's end, the LTTE was not known to be holding any prisoners. (See section 1.g.)

#### c. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Despite legal prohibitions, the security forces and police continue to torture and mistreat persons in police custody and prisons. The Convention Against Torture Act (CATA) made torture a punishable offense. Under the CATA, torture is defined as a specific crime, the High Court has jurisdiction over violations, and criminal conviction carries a 7-year minimum sentence. According to a 1999 Amnesty International (AI) report, however, the CATA does not implement several provisions of the U.N. Convention; this results in torture being prohibited under specific circumstances but allowed under others. Consequently, torture continues. In addition, the PTA makes confessions obtained under any circumstance, including by torture, sufficient to hold a person until they are brought to court. In some cases, the detention can extend for years.

Since 2000, the Government has been working on developing regulations to prosecute and punish military and police personnel responsible for torture. The Attorney General's Office and the Criminal Investigation Unit have established units to focus on torture complaints; the units have forwarded 14 cases for indictments during the year. The Interparliamentary Permanent Standing Committee and its Interministerial Working Group on Human Rights

Issues have begun tracking criminal investigations of torture. In addition, the Government also ceased paying fines incurred by security force personnel found guilty of torture. Security force personnel have been fined under civil statutes for engaging in torture. According to the Attorney General's Office, members of the security forces and police have been prosecuted under criminal statutes, but none of the cases had come to conclusion. The appearance of impunity remains a problem. In the majority of cases in which military personnel may have committed human rights abuses, the Government has not identified those responsible and brought them to justice.

Members of the security forces continued to torture and mistreat detainees and other prisoners, particularly during interrogation. Detainees have reported broken bones and other serious injuries as a result of their mistreatment. There was a report of rape in detention during the year. Medical examination of persons arrested from 2000 to this year continued to reveal multiple cases of torture. In December 2000, the bodies of eight Tamils tortured and killed by the army in Mirusuvil were exhumed after one person escaped and notified authorities. Nine soldiers were arrested, and by year's end, a trial-at-bar had begun (see Sections 1.a. and 1.b.). The military also conducted its own inquiry; the personnel involved have been discharged.

Thivyan Krishnasamy, a student leader and an outspoken critic of the actions of security forces in Jaffna, was released from custody on March 15. He claimed that he was tortured while in custody. Human rights observers claim that he was arrested because of his political activism, but the police stated that he was connected to the LTTE. He was arrested on July 2 and when he was brought before a court in August he complained of being tortured. In response to his allegations of torture, the Jaffna Student Union held protests during the fall of 2001. In response, university administrators temporarily closed the university to avoid violence.

During 2001, there were a number of reports of women being raped by security forces while in detention. One such case involved two women arrested on March 19 in Mannar. The women claim that they were tortured and repeatedly raped by naval and police personnel. The women were released on bail in April 2001 and have filed charges against their assailants. At year's end, the 14 accused were standing trial for rape, torture or both. A fundamental rights case was also opened against the accused. Four other cases in which the security forces are accused of raping women in detention were still pending at year's end.

Under fundamental rights provisions in the Constitution, torture victims may file civil suit for compensation in the high courts or Supreme Court. Courts have granted awards ranging from approximately \$175 (14,200 rupees) to \$2,280 (182,500 rupees). In February 2001, the Colombo high court ordered compensation of \$625 (50,000 rupees) to a young man beaten in police custody in Vavuniya and Colombo in 1999. In August 2001, the Supreme Court ordered \$1,250 (100,000 rupees) in compensation for a Tamil man tortured in December 1999 at an army camp near Batticaloa. Most cases take 2 years or more to move through the courts, however.

The appearance of impunity remains a problem. In the majority of cases in which military personnel may have committed human rights abuses, the Government has not identified those responsible and brought them to justice.

At the invitation of the Government, the United Nations Committee on Torture sent a five-person mission to Colombo in August 2000 to determine whether a systematic pattern of torture exists in the country and, if so, to make recommendations for eliminating the practice. By the end of 2001, the mission had submitted its confidential report to President Kumaratunga. The report has not been released to the public.

In the past, Tamil militants aligned with the former PA government engaged in torture. With the apparent knowledge of the security forces, the PLOTE in Vavuniya and the EPDP in Jaffna, were criticized for torturing their opponents.

The LTTE reportedly used torture on a routine basis. Prison conditions generally are poor and do not meet international standards because of overcrowding and lack of sanitary facilities. The Government permitted representatives from the International Committee of the Red Cross (ICRC) to visit approximately 160 places of detention. The HRC also visited over 2,000 police stations and over 500 detention facilities by year's end (see Section 1.d.).

Conditions also are reportedly poor in LTTE-run detention facilities.

The LTTE permitted the ICRC to visit Sri Lankan soldiers detained in the Vavuniya region approximately once every 6 weeks until their release (see Section 1.g.). Due to the release of detainees in 2000 and the apparent release of the remaining Sri Lankan soldiers held by the LTTE, ICRC visited fewer LTTE detention centers than in previous years (see Section 1.d.). d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention are problems. Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained generally appear before a magistrate within a few days of arrest. The magistrate may authorize bail or order continued pretrial detention for up to three months or longer. Security forces must issue an arrest receipt at the time of arrest, despite some efforts by the Government to enforce this standard, arrest receipts are rarely issued. The lack of providing arrest receipts, observers believe, prevents adequate tracking of cases. The lack of tracking also permits extended detentions and torture without making anyone directly responsible for those being held.

Under the ER (which lapsed in July 2001) and the PTA (under which there were no arrests in 2002), security forces could detain suspects for extended periods of time without court approval. The ER, in force periodically since 1979 and in force island-wide from August 1998 until July 2001, gave security forces broad powers to arrest and detain without charge or the right to judicial review. ER provisions permitted police to hold individuals for up to 90 days to investigate suspected offenses, although the police had to present detainees to a court within 30 days to record the detention. The court was able to order a further 6 months' detention.

In past years, the army generally turned over those that it arrested under the ER to the police within 24 hours, although the police and the army did not always issue arrest receipts or notify the HRC within 48 hours. The HRC has a legal mandate to visit those arrested, and police generally respected this. Due to censorship and infrequent access, observers could not determine the state of affairs in LTTE-controlled areas.

In the past, there were credible reports that the military held persons for short amounts of time in smaller camps for interrogation before transferring them to declared places of detention. This procedure, which allegedly occurred on the Jaffna peninsula, in Vavuniya, and in the east (see Section 1.c.), did not comply with requirements to notify the HRC of arrests and to issue arrest receipts. The military maintained the detainees were "in transit," and claimed they did not violate the detainees' rights.

Unlike previous years, there were no large-scale arrests of Tamils during the year. In the past, many detentions occurred during operations against the LTTE. Most detentions lasted a maximum of several days although some extended to several months. The number of prisoners held at any given moment under the ER and the PTA fluctuated between 1,500 and 2,000. As of September 1, 222 Tamils charged under the PTA remained in detention without bail awaiting trial. As part of the peace process' confidence building measures, the Government released over 750 Tamils arrested under the PTA during the first 8 months of 2002.

Unlike previous years, there were no cordon and search operations during 2002. In previous years, Tamils complained that they were abused verbally and held for extended periods at security checkpoints throughout Colombo. During the week following the July 24, 2001, attack on Colombo's main airbase and international airport, security forces detained hundreds of Tamils in the Colombo region for questioning. In addition, those arrested sometimes were held in prisons with convicted criminals. The vast majority of checkpoints were removed in January and the reports largely ceased (see Section 1.d.).

In July 1998, the President established the Committee to Inquire into Undue Arrest and Harassment (CIUAH). The committee, which includes senior opposition party and Tamil representatives, examines complaints of arrest and harassment by security forces and takes remedial action as needed. The Committee received more than 1,200 complaints in 2001. Opinions on the effectiveness of the CIUAH were mixed. Some human rights observers believed

that the work of the committee deterred random arrests and alleviated problems encountered by detainees and their families. The role of the CIUAH diminished drastically during the past year due to peace-process related improvements (i.e. removing checkpoints, stopping arrests under the PTA, and no cordon and search operations).

The HRC investigated the legality of detention in cases referred to it by the Supreme Court and private citizens. Although the HRC is legally mandated to exercise oversight over arrests and detentions by the security forces and to undertake visits to prisons, Members of the security forces sometimes violated the regulations and failed to cooperate with the HRC in the past.

The Government continued to give the ICRC unhindered access to approximately 160 detention centers, police stations, and army camps recognized officially as places of detention. Due to the lapsing of the ER in July 2001, the total number of persons detained in military bases at any one time has been dramatically reduced, with the military making fewer arrests and transferring detainees to police facilities more quickly than in previous years. With the ceasefire agreement, the number of arrests by the military has declined to near zero.

The EPDP reportedly detained its own members for short periods in Jaffna as punishment for breaking party discipline.

The LTTE has in the past detained civilians, often holding them for ransom. There have been reports of this practice during the year, such as the multiple reports of kidnapping of Muslim businessmen in Batticaloa area, particularly during the first four months of the year. Reports indicate that the LTTE demand anywhere from a few hundred dollars to upwards of \$10,415 (1,000,000 Rupees) for their release. In September 1999, the LTTE held three businessmen for a ransom of \$550,000 (40 million Rupees). The businessmen were freed after making partial payment and promising to pay the balance. (See Section 1.g. regarding prisoner release.)

The Government does not practice forced exile and there are no legal provisions allowing its use.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Government generally respects these provisions in practice.

The President appoints judges to the Supreme Court, the courts of appeal, and the high courts. A judicial service commission, composed of the Chief Justice and two Supreme Court judges, appoints, transfers, and dismisses lower court judges. Judges serve until the mandatory retirement age of 65 for the Supreme Court and 62 for other courts. Judges can be removed for reasons of misbehavior or physical or mental incapacity, but only after a legal investigation followed by joint action of the President and the Parliament.

In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and may be represented by the counsel of their choice, and have the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the high courts and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assist some defendants. In addition, the Ministry of Justice operates 11 community legal aid centers to assist those who cannot afford representation and to serve as educational resources for local communities. These legal aid centers had tried no cases by the end of September, however. There are no jury trials in cases brought under the PTA. Confessions, obtained by various coercive means, including torture, are inadmissible in criminal proceedings, but are allowed in PTA cases; most convictions under the PTA rely heavily on them. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants can spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases come to trial, decisions are made relatively quickly. Over 750 PTA cases were dropped by September 1 and the prisoners released.

Most court proceedings in Colombo and the south are conducted in English or Sinhala, which due to a shortage of court-appointed interpreters has restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east are in Tamil and English, but many serious cases, including

those having to do with terrorism, are tried in Colombo. While Tamil-speaking judges exist at the magistrate level, only four high court judges, an appeals court judge, and a Supreme Court justice speak fluent Tamil. Few legal textbooks and only one law report exist in Tamil, and the Government has complied only slowly with legislation requiring publishing all laws in English, Sinhala, and Tamil.

In Jaffna, LTTE threats against court officials sometimes disrupted normal court operations in the past. Although the Jaffna high court suspended activities due to security concerns in 2000, it reopened in 2001 and was still functioning at year's end.

The LTTE has its own self-described court system, composed of judges with little or no legal training. The courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. The courts reportedly impose severe punishments, including execution.

The Government claims that all persons held under the PTA are suspected members of the LTTE and are, therefore, legitimate security threats. Insufficient information exists to verify this claim and to determine whether these detainees are political prisoners. More than 750 PTA cases were dismissed by the Attorney General by September 1. The Attorney General's office expected a few more of the 222 remaining cases to be dismissed by the end of the year. The Government claims that the cases that remain at that point will only be of those individuals directly linked to suicide bombings or other terrorist and criminal acts. In many cases, human rights monitors question the legitimacy of the criminal charges brought against these persons.

The LTTE also reportedly holds a number of political prisoners. The number is impossible to determine because of the secretive nature of the organization. The LTTE refuses to allow the ICRC access to these prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy, and the Government generally respects this provision in practice; however, it infringes on citizen's privacy rights in some areas. The police obtain proper warrants for arrests and searches conducted under ordinary law; the security forces are not required to obtain warrants for searches conducted either under the now lapsed ER or the PTA, however. The Secretary of the Ministry of Defense is responsible for providing oversight for such searches. No judicial review or other means of redress existed for alleged illegal searches under the ER. Some Tamils complained that their homes were searched as a means of general harassment by the security forces (see Section 1.d.). The Government is believed to monitor telephone conversations and correspondence on a selective basis.

On September 4, taking into account the fast progress of the peace process, the Government legalized the LTTE. The LTTE was first proscribed in 1998 following the suicide bombing of the Temple of the Tooth in Kandy, one of Sri Lanka's holiest sites.

The LTTE routinely invades the privacy of citizens, maintaining an effective network of informants. The LTTE also forcibly recruited children during the year (see Section 6.d.). During August and September, the LTTE handed over 85 children to UNICEF, stating that the children had volunteered to serve, but that the LTTE does not accept children (see Section 6.d.).

#### g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Hostilities between the Government and the LTTE abated with the announcement of unilateral ceasefires in December 2001, followed by a formal ceasefire accord being agreed to in February 2002. On October 10, seven civilians were killed when security force personnel fired into a crowd storming their compound in the east. Some observers claim the security forces used excessive force in repelling a peaceful crowd that was demonstrating against the alleged harassment of LTTE cadre earlier in the day. Others claim the security forces were justified in repelling what appeared to be a LTTE-instigated attack. On April 29, in Nilaveli, on the east coast, two Tamil women were injured when Sri Lankan Naval personnel opened fire. The circumstances surrounding the incident remained unclear at year's end. The investigation into the incident remains open.

In 2001, an estimated 2000 combatants and 100 civilians were killed in conflict-related incidents. In May 2001, a 10-year-old child and the mother were injured near Karawetti when the LTTE and SLA exchanged fire; in June, two civilians were killed and 16 others were injured during a 2-hour confrontation between the LTTE and the SLA at Kawatamunai. The Sri Lankan air force carried out a bombing campaign in the north and east during the year, with particular intensity from June through August. The Tamil press regularly reported the death of civilians due to air force bombing, but there has been no confirmation of these reports.

In the past, the Government often publicized aspects of its planned operations to allow civilians time to vacate the probable areas to be affected. In 2001, the armed forces did not give public warnings before the commencement of operations. During 2002, there were no military actions. In May 2000, 23 persons were killed and dozens were injured when a bomb exploded at a Buddhist temple in Batticaloa in the east, where crowds had gathered to celebrate the Buddhist festival of Vesak. The Government blamed the LTTE for this bombing, but no one claimed responsibility. Investigations into the incident concluded in 2001. After the bomb exploded, security forces reportedly opened fire, killing four children and injuring eight more. The Government maintains that the evidence and interviews of witnesses do not support those claims. In September 1999, the air force dropped bombs on a village near Puthukudiyiruppu in the Vanni, killing 22 persons (see Section 1.a.). Human rights observers alleged that those killed were civilians. Government officials acknowledged that the persons were killed by air force bombs; they alleged, however, that the air force targeted an LTTE training camp, and at first they did not admit the possibility that civilians were killed in error. The Government later acknowledged quietly that the attack was an accident. During 2001, the Government held an investigation and authorized compensation for the victims' families, admitting that the site had been bombed "in error." The Government did not admit formally to having killed civilians, however.

On November 16, 2001, the Sri Lankan Army created the Directorate of Human Rights and Humanitarian Law in the Sri Lankan Army. The directorate is charged with coordinating all human rights activities for the army from ICRC training classes (see Section 4) to overseeing the Human Rights Cells that are assigned throughout the military. The SLA also states that all of its personnel have completed the appropriate training and pledged to adhere to the "rules of international Humanitarian Law." Early in 2002, the air force and navy instituted similar programs. The armed forces operate under written rules of engagement that severely restrict the shelling, bombardment, or other use of firepower against civilian-occupied areas.

At the end of 2001, the UNHCR reported a minimum of 800,000 IDP's in Sri Lanka due to the conflict, while the Commissioner General for Essential Services states that it provides services for over 700,000 persons. Due to an ongoing ceasefire, more than 150,000 IDPs returned to their points of origin last year. The Government did not have the resources to support adequately the returnees. In addition, many returned to areas suspected of being mined.

The Government continued to provide food relief, through the Commissioner General for Essential Services (CGES) and the Multi-Purpose Cooperative Societies (MCPS), to displaced and other needy citizens, including those in areas controlled by the LTTE. Food rations were delivered by the Government to the Vanni area through a checkpoint that is controlled on one side by the security forces and on the other by the LTTE. The border into the territory controlled by the LTTE was not closed during the year.

Prior to 2002, the Government maintained a long list of prohibited "war-related" medical items, such as sutures, plaster of Paris, intravenous liquid supplies, bandages, and some drugs. At the end of the year, however, only certain military-related items were prohibited from being transported to LTTE controlled areas. In the past, NGO's and other groups that sought to take controlled items to LTTE-controlled areas in the Vanni region needed permission from local officials as well as from the Ministry of Defense. Delays were common and approval sometimes was denied. As a result, many medical items in the Vanni region and Jaffna were in short supply. This shortfall contributed to a deterioration in the quality and quantity of medical care furnished to the civilian population. Previous restrictions on the transport of items such as cement, batteries, and currency into the LTTE-controlled areas also had a negative impact on the

relief work of NGO's in those areas.

The Ministry of Defense reported capturing several LTTE operatives in Government-controlled areas with weapons in direct contradiction of the terms of the ceasefire agreement. The Government reportedly returned most LTTE personnel thus apprehended directly to the closest LTTE checkpoint, but some were detained for longer periods. Previously the military sent the cadre they captured or who surrendered to rehabilitation centers. The ICRC continued to visit former LTTE members in government rehabilitation camps, although the October 2000 massacre of more than 20 such detainees at a government-run detention facility at Bindunuwewa, near Bandarawella, led observers to question the continued security of residents of these facilities (see Section 1.a. and 1.g.).

In view of the scale of hostilities in previous years and the large number of LTTE casualties, some observers have found the number of prisoners taken under battlefield conditions to be low and have concluded that many LTTE fighters apparently were killed rather than taken prisoner. Some observers believed that, on the government side, an unwritten "take-no-prisoners" policy had been in effect. The military denied this claim, stating that other factors limited the number of prisoners taken, such as the LTTE's efforts to remove injured fighters from the battlefield, the proclivity of its fighters to choose suicide over capture, and the LTTE's occasional practice of killing its own badly injured fighters (see Section 1.a.). There were no reports of security forces personnel executing LTTE cadres during the year.

In previous years, the Government refused to permit relief organizations to provide medical attention to injured LTTE fighters, although it has offered to treat any LTTE injured entrusted to government care. According to credible reports, injured LTTE cadres surrendering to the Government received appropriate medical care.

The LTTE admitted that in the past it killed security forces personnel rather than take them prisoner. Past eyewitness accounts confirm that the LTTE has executed injured soldiers on the battlefield. At year's end, the LTTE had reportedly released all security force personnel they were holding. The LTTE is believed to have killed most of the police officers and security force personnel captured in the past few years. The LTTE in 1999 transferred 11 captured SLA members to the ICRC. In February 2000, the LTTE released four servicemen and in June 2000 released one civilian. In January, the LTTE unilaterally released 10 Sri Lankans, including some soldiers. On September 28, the LTTE release 7 prisoners in exchange for the release of 13 of their cadre.

The LTTE used excessive force in the war. During the year, the LTTE has engaged in hostage taking, hijackings, and forcible recruitment.

In July 2001, the LTTE attacked Colombo's main airbase and international airport. During the attack, the LTTE destroyed six military and four civilian aircraft. The LTTE also damaged the civilian airport.

In the past, the LTTE was regularly accused of killing civilians. For example, the LTTE was accused of killing four Sinhalese villagers at Wahalkada village in March 2001, and killing a Tamil civilian and injuring 15 others in Trincomalee in June of the same year (see Section 1.a.).

The LTTE uses child soldiers. In October, four children ranging in age from 15 to 17 years surrendered to a local church near Trincomalee after escaping from the LTTE. Credible sources reported increased LTTE recruitment, including recruitment of children during the year.

The LTTE expropriates food, fuel, and other items meant for IDP's, thus exacerbating the plight of such persons in LTTE-controlled areas. Malnutrition remained a problem in LTTE-controlled areas as well as in other parts of the Vanni region, with nutrition levels falling below the national average. Experts have reported a high rate of anemia and a low birth rate, both of which indicate lower levels of nutrition. Confirmed cases of malnutrition included hundreds of children. A survey completed by Medecins Sans Frontieres in 1999 found malnutrition levels in the war-affected areas at about the same level as in the war-free south of the country, however.

Landmines were a problem in Jaffna and the Vanni and to some extent in the east. Landmines, booby traps, and unexploded ordnance pose a problem to resettlement of displaced persons and rebuilding. A U.N. landmine team tasked with locating and mapping LTTE and army mines in the Jaffna peninsula suspended its mission in April 2000

stating that it was impossible to continue as long as hostilities continued. At year's end, a UN team was again in Jaffna coordinating the process of mapping the mined areas and establishing oversite for a mine removal program. The Sri Lankan Military and the LTTE are removing mines in areas they control. The government was reporting in excess of four mine-related casualties among civilians per month for 2002. In August 2001, a civilian bus travelling to Trincomalee hit a land mine injuring 30 of its passengers. In September 2001, a vehicle carrying a family hit a mine approximately 5 kilometers north of Jaffna, killing all six passengers and the driver.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and expression. In the past, the Government restricted these rights in practice, often using national security grounds permitted by law. The Government reissued censorship orders, on all ongoing and future military operations, in November 1999 after the military suffered setbacks in the field. The Government officially lifted the censorship on war reporting in June 2001. However, even when no specific government censorship is exercised, private television stations impose their own, informal censorship on international television news rebroadcast in the country.

During 2002, criminal defamation laws, which were often used by the Government to intimidate independent media outlets, were eliminated and all pending cases dropped. The cases for which a decision had already been made still stand.

The Government controls the country's largest newspaper chain, two major television stations, and the Sri Lanka Broadcasting Corporation (SLBC, a radio station). There are a variety of independent, privately owned newspapers, journals and radio and television stations, most of which freely criticize the Government and its policies. The Government imposes no political restrictions on the establishment of new media enterprises.

The president officially eased censorship restrictions on foreign journalists in a circular published in June 2000; material for publication or broadcast within the country, regardless of author, remained subject to government approval until the repeal of censorship laws in June 2001, however. Claims of harassment and intimidation of private media by the government continue.

Human rights observers commented that in the past Tamils from the north or east who criticized the Sri Lankan military and Government were often harassed and sometimes arrested. They cite the case of Thiviyen Krishnasamy, a student leader in Jaffna and critic of the military in the Jaffna area. He was arrested in July 2001 and released in March 2002 (see Section 1.c).

In September 2000, police arrested a young man for criticizing the president on a radio call-in show. Police traced the call to discover the caller's address. The young man's parents alleged that he had a mental illness and could not be held responsible for his comments. The young man remained in prison at year's end.

In 2000, police detained two persons for questioning in connection with the 1999 murder of Rohana Kumara, editor of a Sinhala-language newspaper which had been critical of leading figures in the ruling coalition. The case remained open at year's end.

In February 1998, armed men attacked a journalist who regularly reported on defense matters, including corruption in military procurements. The Government criticized the attack; it subsequently arrested and indicted two air force personnel in the case, including the bodyguard of a former Commander of the Air Force. A formal indictment was handed down in 1999. Courts postponed the hearings several times during the past two years. On February 9, the assailants were given lengthy jail sentences.

The Supreme Court appeal of the editor of a leading national newspaper who was convicted of defaming the president in 1997 was pending at the end of 2001. Other defamation cases filed by the President against editors of major newspapers who either had criticized the Government or supported the opposition remained pending. Threats of further complaints to be filed by the Government or president continued through 2001. Journalists viewed these cases as frivolous and intended only to intimidate and harass the media. In 2002, the defamation laws permitting these cases was repealed and

the cases dropped.

The Sri Lanka Tamil Media Alliance (SLTMA) was formed in 1999 to protect the interests of Tamil journalists, who allege that they are subject to harassment and intimidation by Tamil paramilitary groups and Sri Lankan security forces. Regional Tamil correspondents working in the war zones have complained of arbitrary arrest and detention in the past and difficulty in obtaining press accreditation. The SLTMA has filed cases on behalf of Tamil journalists, but its cases have not yet succeeded in the courts.

Prior to 2002, travel by local and foreign journalists to conflict areas was restricted, as they were required to obtain advance permission from the Ministry of Defense to visit such areas. The Foreign Ministry also must approve visits to conflict areas by foreign journalists. The LTTE does not tolerate freedom of expression. It tightly restricts the print and broadcast media in areas under its control. The LTTE has killed those reporting and publishing on human rights.

The Government does not restrict access to the Internet.

The Government generally respects academic freedom.

The LTTE does not respect academic freedom, and it has repressed and killed intellectuals who criticize it, most notably the moderate and widely respected Tamil politician and academic, Dr. Neelan Tiruchelvam, who was killed by a suicide bomber in July 1999. The LTTE also has severely repressed members of human rights organizations, such as the University Teachers for Human Rights (UTHR), and other groups. Many former members of the UTHR have been killed.

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and the Government generally respects this right in practice. Although the PTA may be used to restrict this freedom, the Government did not use the act for that purpose during the last two years. The ER, which lapsed in July 2001, also restricted the right of assembly. Numerous peaceful political and nonpolitical rallies were held throughout Sri Lanka during the year.

On July 19, 2001, the opposition held a rally that the Government claimed was illegal under the 1981 Referendum Act, which essentially states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled. Security forces killed two persons when the government confronted the rally with force, prompting further demonstrations. The Government generally grants permits for demonstrations, however, including those by opposition parties and minority groups.

On April 30, 2001, a violent clash between the Sinhalese and Muslim communities occurred in Mawanella. The Muslim community protested alleged police inaction concerning the assault on a Muslim store clerk. In response, a group of Sinhalese attacked the Muslim protesters. As the conflict escalated, two Muslims were killed and scores of buildings and a few vehicles were destroyed. Police reportedly did nothing to stop the destruction of Muslim property. The investigation into the Mawanella incident remained open at year's end.

The law provides for freedom of association and the Government respects this right in practice. Although the PTA may restrict this right, the Government did not use the act for that purpose during the previous two years.

The LTTE does not allow freedom of association in the areas that it controls. The LTTE has reportedly used coercion to make people attend rallies it sponsors. On the Jaffna Peninsula, the LTTE occasionally has posted in public places the names of Tamil civilians accused of associating with security forces and other Government entities. The LTTE has killed Tamil civilians who have cooperated with the security forces in establishing a civil administration in Jaffna under a political leadership elected freely and fairly in January 1998.

#### c. Freedom of Religion

The Constitution gives Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the Government respects this right in practice. Despite the special status afforded by the Constitution to Buddhism, major religious festivals of all faiths are celebrated as public holidays.

Foreign clergy may work in the country, but for the last 30 years, the Government has sought to limit the number

of foreign religious workers given temporary work permits. Permission usually is restricted to denominations registered with the Government. The Government has prohibited the entry of new foreign clergy on a permanent basis. It permitted those already in the country to remain.

Some evangelical Christians have expressed concern that their efforts at proselytizing often meet with hostility and harassment from the local Buddhist clergy and others opposed to their work. During the summer, at least one couple was physically assaulted by Buddhist clergy. Evangelicals sometimes complain that the Government tacitly condones such harassment, but there is no evidence to support this claim.

The LTTE expelled virtually the entire Muslim population from their homes in the northern part of the island in 1990. Most of these persons remain displaced. In the past, the LTTE expropriated Muslim homes, lands, and businesses and threatened Muslim families with death if they attempted to return (see Section 2.d.). In the past year, the LTTE leadership has met with the leaders of the Muslim community on their incorporation into the peace process. The LTTE has made some conciliatory statements to the Muslim community, but the statements are viewed with skepticism by Muslims.

The LTTE attacked Buddhist sites, most notably the historic Dalada Maligawa or "Temple of the Tooth," the holiest Buddhist shrine in the country, in Kandy in January 1998. In May 2000, an LTTE bombing near a temple at the Buddhist Vesak festival in Batticaloa killed 23 persons and injured dozens of others (see Section 1.a.).

The LTTE has been accused in the past of using church and temple compounds, where civilians were instructed by the Government to congregate in the event of hostilities, as shields for the storage of munitions.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to [the country]," and the Government generally respects the right to domestic and foreign travel. In the past, however, the war with the LTTE prompted the Government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. Tamils had to obtain police passes in order to move freely in the north and east, and frequently they were harassed at checkpoints throughout the country (see Section 1.d.). These security measures had the effect of restricting the movement of Tamils.

The government has lifted most travel restrictions within the country. Areas near military bases and so-called high security zones still have limited access. Some observers claim the high security zones are excessive and unfairly claim Tamil lands, particularly in Jaffna. In April, the A-9 road connecting Jaffna in the north to the rest of Sri Lanka was reopened. The LTTE still puts some limitation on travel on the road, including tolls, but the government has lifted all of its past restrictions on travel to Jaffna.

The armed forces initially prevented more than 1,000 civilians from vacating conflict areas on the Jaffna peninsula during fighting in April and May 2000; however, the military quickly decided to permit civilians to evacuate the area after intense pressure by human rights groups. Fighting between Government and the LTTE has displaced hundreds of thousands of persons, with many displaced multiple times as front lines shifted. Since September 2000, 172,000 IDP's have been living in welfare centers ranging from camps, where conditions vary considerably, to settlements with a full range of government social services and food aid. By the end of 2001, an estimated 500,000 to 800,000 IDP's, including those in the Vanni, had registered for government food aid, and were receiving medicine and other essential supplies from the Government. By year's end, more than 150,000 of these IDP's had returned home.

The Government has sought to resettle the displaced where possible and has arranged for a number of those from Jaffna to return to their homes. Over the years, the Government, in cooperation with the UNHCR, built permanent housing for 18,000 Muslims in the Puttalam area. An additional one-time resettlement program relocated 1000 families by end of 2001. Many of those resettled later were displaced by subsequent fighting, including those who returned to their homes north and east of Vavuniya in 1999, but were forced to flee again when the LTTE retook the area starting in November, 1999.

The current return of IDP's exceeds the capacity of the Government to provide adequate assistance. The IDP's are, in some cases, returning to areas that are still mined.

The LTTE has discriminated against Muslims, and in 1990 expelled some 46,000 Muslim inhabitants--virtually the entire Muslim population--from their homes in areas under LTTE control in the northern part of the island. Most of these persons remained displaced and live in or near welfare centers at year's end. There are credible reports that the LTTE has warned thousands of Muslims displaced from the Mannar area not to return to their homes until the conflict is over. In the past, the LTTE has expropriated Muslim homes, land, and businesses and threatened Muslim families with death if they attempt to return. It appears that those attacks by the LTTE are not targeted against persons due to their religious beliefs, however; rather, it appears that they are part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. For its part, the LTTE has invited the Muslim IDPs to return home, asserting they will not be harmed. Although some Muslim IDPs have begun returning home, the vast majority still do not trust the LTTE and are waiting for a firm settlement or guarantees from the government or international community as to their safety in LTTE-controlled areas.

Between October 1996 and the end of 1999, over 150,000 persons moved out of LTTE-controlled regions through Vavuniya and other transit points into government controlled regions. Of these, over 100,000 reached Jaffna and other Tamil-majority areas. Many had left the Vanni region with the intention of proceeding south; they opted for other destinations only after learning that they would have to remain in transit camps until security clearances for southward travel were obtained. Obtaining a clearance could take up to 4 months in some cases, and some human rights groups alleged that the procedures were arbitrary and unreasonably strict. The Government restricted the movement of displaced Tamils due to possible security, economic, and social concerns. These restrictions have basically been lifted with the onset of the peace process.

Prior to 2002, and following the Government's capture of Jaffna in 1995, the LTTE began to allow persons to move more freely into government-controlled areas, although it still extracted a small fee for "travel passes" to leave the Vanni, and it rarely allowed entire families to leave at once. The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the one established and legal checkpoint. In the past, the LTTE disrupted the movement of IDP's from Trincomalee to Jaffna by hijacking or attacking civilian shipping, although there were no such reports this year. Humanitarian groups estimate that more than 200,000 IDP's live in LTTE-controlled areas (see Section 1.g.).

Several thousand Tamils fled LTTE-controlled areas to Tamil Nadu in southern India in 1998. An estimated 65,000 Tamil refugees live in camps there. Approximately 100,000 refugees may have integrated into Tamil society in India over the years. A small number returned from India during the year.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise during the year. The Government does not permit the entry of refugees into the country or grant first asylum, nor does it aid those who manage to enter to seek permanent residence elsewhere. The law does not include provisions for granting refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no reported instances of forcible repatriation of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government through periodic multiparty elections based on universal adult suffrage; however, recent elections have been marred by violence and irregularities. The country is a longstanding democratic republic with an active multiparty system. Power is shared between the popularly elected President and the 225-member Parliament. The right to change the government was last exercised in the December 2001 parliamentary elections in which the United National Front, a coalition of parties led by the United National Party (UNP), won a majority in Parliament for the next 6-year period. The December 2001 and November 2000 parliamentary elections were marred by voting

irregularities and violence.

Following the December 2001 elections, the UNP and its allies formed the new Government. The president's party, the People's Alliance (PA), is now the opposition in Parliament. The UNP, led by Prime Minister Ranil Wickremesinghe, has formed the new Government and filled the positions in the cabinet. Cohabitation ties between the president and prime minister have been difficult.

The president suspended Parliament from July to September 2001. The suspension of Parliament angered opposition parties, which sponsored numerous demonstrations. One of these demonstrations, on July 19, ended with the deaths of two marchers killed by security forces (see Section 2.b.). After further defections from her coalition, the President dissolved Parliament on October 10 and called for elections to take place on December 5.

On December 5, 2001, 12 supporters of the Sri Lankan Muslim Congress were killed, apparently by hired thugs of a PA candidate. Former PA MP Anuruddha Ratwatte and his two sons have been indicted for conspiracy. In addition, 15 others, including security force personnel, were also indicted for their alleged involvement in the murders. The trial was still ongoing at year's end. Despite an extremely violent campaign, including credible reports on the use of intimidation by both of the major parties, voter turnout exceeded 70 percent. The People's Alliance for Free and Fair Elections (PAFFREL) reported 755 incidents of violence and 49 deaths; The Center for Monitoring Election Violence (CMEV) reported 4,208 incidents, and 73 deaths; and the police reported 2,247 incidents, and 45 deaths during the year.

In September 2001, the Parliament passed the 17th Amendment, which established an independent Commission on Elections (among other commissions), which is to be tasked with ensuring free and fair elections.

A delegation from the European Union monitoring the election expressed concern about violence and irregularities in the voting, but concluded that the election "did to a reasonable degree reflect the will of the electorate."

The Commissioner of Elections recognized 46 parties at the time of general elections in October 2000; only 13 parties actually held seats in the 225-member Parliament elected during 2001. The two most influential parties, the Sri Lanka Freedom Party (the principal component party of the governing PA coalition) and the UNP, generally draw their support from the majority Sinhalese community. These two parties have alternated in power since independence.

Although there are no legal impediments to the participation of women in politics or government, the social mores in some communities limit women's activities outside the home, and the percentage of women in government and politics does not correspond to their percentage of the population. In November 1994, a woman was elected President for the first time; she was reelected in December 1999 for a second term. Eleven women held seats in the Parliament that completed its term in August 2000. In addition to the Prime Minister, the Minister for Women's Affairs, and the Minister of Social Services, a number of women held posts as deputy ministers in the last parliament. Of the 5,000 candidates for the October 2000 parliamentary elections, 116 were women and 7 of them won seats in the October elections. Only one woman (Minister of Women's Affairs) was appointed to the new cabinet formed after the December 5 elections.

The Parliament elected in October 2000 had 23 Tamil and 22 Muslim members. The Parliament elected in December 2001 had 28 Tamil, 21 Muslim, and 9 women members.

The LTTE refuses to allow elections in areas under its control, although it did not oppose campaigning by certain Tamil parties in the east during the December 2001 parliamentary elections. In previous years the LTTE effectively undermined the functioning of local government bodies in Jaffna through a campaign of killing and intimidation. This campaign included the killing of 2 of Jaffna's mayors and death threats against members of the 17 local councils. Throughout the period of the conflict, the LTTE has killed popularly elected politicians, including those elected by Tamils in areas the LTTE claimed as part of a Tamil homeland.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic human rights NGO's, including the Consortium of Humanitarian Agencies (CHA), the University

Teachers for Human Rights, Jaffna (UTHR-J), the Civil Rights Movement (CRM), and the Law and Society Trust (LST), monitor civil and political liberties. There are no adverse regulations governing the activities of local and foreign NGO's, although the Government officially requires NGO's to include action plans and detailed descriptions of funding sources as part of its registration process. Some NGO workers have seen this as an attempt by the Government to exert greater control over the NGO sector after previous human rights groups criticisms. Few NGO's complied with these new reporting requirements. The Government generally cooperated with NGO's, members of Parliament, and other officials participating in seminars and other events concerning human rights and humanitarian affairs.

The Government allowed the ICRC unrestricted access to detention facilities (see Sections 1.c. and 1.d.). The ICRC provides international humanitarian law training materials and training to the security forces. The UNHCR, the ICRC, and a variety of international NGO's assisted in the delivery of medical and other essential supplies to the Vanni area (see Section 1.g.).

In the first 6 months of the year, the HRC conducted over 600 visits to police stations and over 300 visits to detention facilities. The HRC has over 4,500 cases of alleged human rights abuse pending. The Commission's investigation into the allegations by former Lance Corporal Rajapakse about mass graves at Chemmani in Jaffna resulted in exhumations in 1999 that provided the basis for the ongoing case (see Section 1.a.). Some observers still complain that the HRC is hampered by the lack of a strong leader. Over the past year, however, many observers of commented positively on the new leader's implementation of standardized procedures and willingness to confront other government branches on human rights issues. The new commissioners were appointed in March 2000 and stayed in place until early 2002. Activists have expressed some satisfaction with the new leadership's prompt investigation into the November 2000 Bindunuwewu massacre.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal rights under the law for all citizens, and the Government generally respects these rights. The Supreme Court regularly upholds court rulings in cases in which individuals file suit over the abridgment of their fundamental civil rights. The HRC and the CIUAH are other mechanisms that the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts (see Section 1.d.).

##### Women

Sexual assault, rape, and spousal abuse (often associated with alcohol abuse) continued to be serious and pervasive problems.

Amendments to the Penal Code introduced in 1995 specifically addressed sexual abuse and exploitation and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense in cases of spouses living under judicial separation, and laws govern sexual molestation and sexual harassment in the workplace. While the Penal Code may ease some of the problems faced by victims of sexual assault, many women's organizations believe that greater sensitization of police and judicial officials is required. The Government set up the Bureau for the Protection of Children and Women within the police in 1994 to respond to calls for greater awareness and attention; however, there was no information on any actions taken by the Bureau nor on the number of crimes against women.

Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurs (see Sections 6.c. and 6.f.).

During 2001, police reported 500 rape case investigations. In 2001, there were a number of reports of security forces raping women in custody (see Section 1.c.). In 2002, there was one such report. There have been no convictions in the cases involving security force personnel.

The Constitution provides for equal employment opportunities in the public sector. However, women have no legal protection against discrimination in the private sector where they sometimes are paid less than men for equal work, often experience difficulty in rising to

supervisory positions, and face sexual harassment. Women constitute approximately one-half of the formal work force.

Women have equal rights under national, civil, and criminal law. However, questions related to family law, including divorce, child custody, and inheritance, are adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, except in the case of Muslims, who continue to follow their customary marriage practices. The application of different legal practices based on membership in a religious or ethnic group often results in discrimination against women.

#### Children

The Government is committed to protecting the welfare and rights of children, but is constrained by a lack of resources. The Government demonstrates this commitment through its extensive systems of public education and medical care. The law requires children between the ages of 5 and 14 to attend school. Approximately 85 percent of children under the age of 16 attend school. Education is free through the university level. Health care, including immunization, also is free.

In the period from January 1 to June 30, 2000, the police recorded 680 cases of crimes against children, compared with 767 cases for January 1 to the end of August. Many NGO's attribute the problem of exploitation of children to the lack of law enforcement rather than adequate legislation. In the past many law enforcement resources were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducts investigations into crimes against these two groups. In September, the Police also opened an office to work directly with the National Child Protection Authority (NCPA) on children's issues.

There is a problem of child prostitution in certain coastal resort areas. The Government estimates that there are more than 2,000 active child prostitutes in the country, but private groups claim that the number is much higher (see Section 6.f.). The bulk of child sexual abuse in the form of child prostitution is committed by citizens; however, some child prostitutes are boys who cater to foreign tourists. Some of these children are forced into prostitution (see Section 6.f.). The Government has pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalty for pedophilia is not less than 5 years and up to 20 years as well as an unspecified fine. Four cases of pedophilia were brought to court in 2000, one involving a foreigner. At least two cases were brought to court in 2002 but the accused fled the country in each case. There was at least one reported arrest for pedophilia during the year, but no convictions.

Regular employment of children also occurs in the informal sector and in family enterprises (see Section 6.d.). Government inspections have been unable to eliminate these forms of child labor, although an awareness campaign coupled with the establishment of hot lines for reporting child labor has led to an increase in the prosecutions by the Labor Department regarding child labor violations. However, many thousands of children are believed to be employed in domestic service, although this situation is not regulated or documented. Many child domestics are reportedly subjected to physical, sexual and emotional abuse. Internal trafficking in male children for the purpose of prostitution is a problem (see Sections 6.d. and 6.f.).

The Government created the National Child Protection Authority (NCPA) in 1998. The law establishing the NCPA consolidated existing legislation and defined a child as anyone under age 18. Under the law, the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. The legislation further widened the definition of child abuse to include the involvement of children in war. The NCPA is comprised of representatives from the education, medical, retired police, and legal professions; it reports directly to the President. The police also created an office in September to work directly with the NCPA, particularly in investigations of incidents the NCPA reports to them. In the past, the LTTE used child soldiers and recruits children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as 13, have surrendered to the military, and credible reports indicate the LTTE has stepped up recruiting efforts (see Section 1.g.). In May 1998, the

LTTE gave assurances to the Special Representative of the U.N. Secretary General for Children in Armed Combat that it would not recruit children under the age of 17. The LTTE has not honored this pledge, even after the ceasefire agreement there were multiple credible reports of the LTTE forcibly recruiting children (see Section 6.d.).

#### Persons with Disabilities

The law does not mandate accessibility to buildings or government services for persons with disabilities. The World Health Organization estimates that 7 percent of the population is persons with disabilities. Most persons with disabilities, who are unable to work, are cared for by their families. The Department of Social Services operates eight vocational training schools for persons with physical and mental disabilities and sponsors a program of job training and placement for graduates. The Government also provides some financial support to NGO's that assist persons with disabilities; subsidizes prosthetic devices and other medical aids for persons with disabilities; makes some purchases from suppliers with disabilities; and has registered 74 schools and training institutions for persons with disabilities run by NGO's. The Social Services Ministry has selected job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs. In spite of these efforts, persons with disabilities still face difficulties because of negative attitudes and societal discrimination. In 1996 Parliament passed legislation forbidding discrimination against any person on the grounds of disability. No cases are known to have been filed under this law.

#### Indigenous People

The country's indigenous people, known as Veddas, number fewer than 1,000. Some prefer to maintain their isolated traditional way of life, and they are protected by the Constitution. There are no legal restrictions on their participation in the political or economic life of the nation. In August 1998, the Government fulfilled a long-standing Veda demand when the president issued an order granting Veddas the right to hunt and gather in specific protected forest areas. The executive order granted the Veddas the freedom to protect their culture and to carry on their traditional way of life without hindrance. Under a pilot program, Veddas received special identity cards to enable their use of these forest areas. Some Veddas still complain that they are being pushed off of their land.

#### Religious Minorities

Discrimination based on religious differences seems much less common than discrimination based on ethnicity or caste. In general, the members of the various faiths tend to be tolerant of each other's religious beliefs. However, on occasion, Christians have been harassed by Buddhist monks for their alleged attempts to convert Buddhists to Christianity. Catholic clergy, for example, have reported non-violent incidents of this sort in the south during the year. Evangelical Christians were physically assaulted on at least one occasion. In the past, evangelical Christians have reported similar incidents (see Section 2.c.).

There are reports that members of various religious groups give preference in hiring in the private sector to members of their own group or denomination. This practice likely is linked to the country's ongoing ethnic problems and does not appear to be based principally on religion. There is no indication of preference in employment in the public sector on the basis of religion.

In April 2001, three Sinhalese men attacked a Muslim cashier in Mawanella. The Muslim community protested police inaction regarding the attack. In response approximately 2,000 Sinhalese, including Buddhist monks, rioted in the Muslim section of town and confronted the Muslim protesters. Two Muslims were killed, and a number of buildings and vehicles were destroyed. The Muslim community throughout the western portion of the country staged a number of protests claiming the police did nothing to prevent the riot. Some of the protests resulted in clashes between the Muslim and Sinhalese communities.

The LTTE has attacked notable Buddhist sites. In May 2000, 23 persons were killed and dozens injured when an LTTE bomb exploded near a temple at the Buddhist Vesak festival.

In 2002, the LTTE allowed Roman Catholics unlimited access to a shrine at Madhu in the north. Thousands of pilgrims took the opportunity to visit the shrine.

## National/Racial/Ethnic Minorities

There are approximately one million Tamils of comparatively recent Indian origin, the so-called "tea estate" Tamils or "Indian" Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. Approximately 75,000 of these persons do not qualify for either Indian or Sri Lankan citizenship and face discrimination, especially in the allocation of government funds for education. Without national identity cards, they also are vulnerable to arrest by the security forces. However, the Government has stated that none of these persons would be forced to depart the country. During 1999, the Government introduced a program to begin registering these individuals; 15,300 tea estate Tamils received identity cards between January and September 30, 2001. Some critics charged that the program did not progress fast enough.

Both Sri Lankan and tea estate Tamils maintain that they have long suffered systematic discrimination in university education, government employment, and in other matters controlled by the Government. Section 6 Worker Rights

### a. The Right of Association

The Government respects the constitutional right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views; however, in practice, such rights can be subject to administrative delays, and are unofficially discouraged. Nonetheless, approximately 25 percent of the 6.7 million person work force nationwide and more than 70 percent of the plantation work force, which is overwhelmingly Hill Tamil, is unionized. In total there are more than 1,000,000 union members, 650,000 of whom are women. Approximately 20 percent of the nonagricultural work force in the private sector is unionized. Unions represent most workers in large private firms, but those in small-scale agriculture and small businesses usually do not belong to unions. Public sector employees are unionized at very high rates and are highly politicized.

Most large unions are affiliated with political parties and play a prominent role in the political process, though major unions in the public sector are politically independent. More than 30 labor unions have political affiliations, but there are also a small number of unaffiliated unions, some of which have active leaders and a relatively large membership. In 2000 the most recent year for which data is available, the Department of Labor registered 183 new unions and canceled the registration of 132 others, bringing the total number of functioning unions to 1,604. The Ministry of Labor is authorized by law to cancel the registration of any union that does not submit an annual report. This requirement is the only legal grounds for cancellation of registration.

All workers, other than civil servants and workers in "essential" services, have the right to strike. By law workers may lodge complaints with the Commissioner of Labor, a labor tribunal, or the Supreme Court to protect their rights. These mechanisms are effective; however, there can be lengthy delays in the resolution of cases. New reforms put limits on the amount of time allowed to resolve arbitration cases, though there is a substantial backlog to clear. The Government periodically has controlled strikes by declaring some industries essential under the ER (which lapsed in July 2000). The President retains the power to designate any industry as an essential service. The ILO has pointed out to the Government that essential services should be limited to services where an interruption would endanger the life, personal safety, or health of the population.

Civil servants collectively may submit labor grievances to the Public Service Commission, but they have no legal grounds to strike. Nonetheless, government workers in the transportation, medical, educational, power generation, financial, and port sectors have staged brief strikes and other work actions in the past few years. There were numerous public sector strikes during the year.

The law prohibits retribution against strikers in nonessential sectors. Employers may dismiss workers only for disciplinary reasons, mainly misconduct. Incompetence or low productivity are not grounds for dismissal. Dismissed employees have a right to appeal their termination before a labor tribunal.

Unions may affiliate with international bodies, and some have done so. The Ceylon Workers Congress, composed exclusively of Hill Tamil plantation workers, is the only trade union organization affiliated with the International Confederation of Free Trade Unions (ICFTU), although a new trade union in the Biyagama export processing zone (EPZ) is affiliated with the Youth Forum of the ICFTU. No national trade union center exists to centralize or facilitate contact with international groups.

**b. The Right to Organize and Bargain Collectively**

The law provides for the right to collective bargaining, but fewer than 100 companies rely on it. Large firms may have employees in as many as 60 different unions. In enterprises without unions, including those in the EPZ's, worker councils--composed of employees, employers and often a public sector representative--generally provide the forums for labor and management negotiation. The councils do not have the power to negotiate binding contracts, and labor advocates have criticized them as ineffective.

In December 1999, Parliament passed an amendment to the Industrial Disputes Act to require employers to recognize trade unions and the right to collective bargaining. The law prohibits antiunion discrimination. This law is being implemented. Employers found guilty of such discrimination must reinstate workers fired for union activities but may transfer them to different locations.

There are approximately 110,000 workers employed in three EPZ's, a large percentage of them women. Under the law, workers in the EPZ's have the same rights to join unions as other workers. Few unions have formed in the EPZs, partially because of severe restrictions on access by union organizers to the zones. While the unionization rate in the rest of the country is approximately 25 percent, the rate within the EPZs is only 10 percent. Labor representatives allege that the Government's Board of Investment, which manages the EPZs, including setting wages and working conditions in the EPZs, has discouraged union activity. The short-term nature of employment and relatively young workforce in the zones makes it difficult to organize. Work councils in the EPZs are chaired by the Government's Board of Investment (BOI) and only have the power to make recommendations. Labor representatives also allege that the Labor Commissioner, under BOI pressure, has failed to prosecute employers who refuse to recognize or enter into collective bargaining with trade unions. While employers in the EPZs offer generally higher wages and better working conditions than employers elsewhere, workers face other concerns, such as security, expensive but low quality boarding houses, and sexual harassment. In most instances, wage boards establish minimum wages and conditions of employment, except in the EPZs, where wages and work conditions are set by the BOI.

**c. Prohibition of Forced or Compulsory Labor**

Forced or compulsory labor is prohibited under the law; however, there were reports of the use of forced or compulsory labor. ILO Convention 105 was not ratified yet by the end of September. There are reports of women being trafficked to the country for the purpose of prostitution (see Section 6.f.). Some children reportedly were trafficked and forced into prostitution (see Sections 5 and 6.f.). The law does not prohibit forced or bonded labor by children specifically, but government officials interpret it as applying to persons of all ages. There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households. There were many reports that some of these children had been abused.

There are credible reports that some soldiers attached to an army camp north of Batticaloa forced local villagers to build a wall around the camp during 2000, and that they beat individuals who refused to comply. The military apparently transferred the officer responsible for the forced labor when the abuse was publicized.

**d. Status of Child Labor Practices and Minimum Age for Employment**

The law prohibits labor by children under 14 years of age, but child labor is a problem and still exists in the informal sectors. The National Child Protection Authority Act (NCPA) combats the problem of child abuse, including unlawful child labor. The act consolidated existing legislation that established what types of employment are restricted for children, which age groups are affected. The Ministry of Labor is the competent authority to set regulations, carry out implementation, and monitoring.

The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited work. In January 2000, Parliament repealed a regulation that permitted domestic employment for children as young as age 12. The law permits the employment of persons from the age of 14 for not more than one hour on any day before school. The Trade Union Ordinance of 1935 allows membership only from the age of 16, however. The law also permits employment in any school or institution for training purposes. The Compulsory Attendance at Schools Act, which requires children between the ages of 5 and 14 to attend school, has been in effect since January 1998, although it still is being implemented. Despite legislation, child labor still exists in the informal sector. A child activity survey carried out in 1998 and 1999 by the Department of Census and Statistics found almost 11,000 children between the ages of 5 and 14 working full time and another 15,000 engaged in both economic activity and housekeeping. The survey found 450,000 children employed by their families in seasonal agricultural work.

Persons under age 16 may not be employed in any public enterprise in which life or limb is endangered. There are no reports that children are employed in the EPZs, the garment industry, or any other export industry, although children sometimes are employed during harvest periods in the plantation sectors and in nonplantation agriculture. A 1995 labor survey of the plantations indicated that half of all children in plantations drop out of school after the fourth grade, leaving a large pool of children between the ages of 10 and 15 available to pursue employment. The primary school retention rate has been increasing in recent years.

Many thousands of children are believed to be employed in domestic service, although this situation is not regulated or documented. A 1997 study reported that child domestic servants are employed in 8.6 percent of homes in the Southern Province. The same study reported that child laborers in the domestic service sector often are deprived of an education. Many child domestics are reportedly subjected to physical, sexual, and emotional abuse.

Regular employment of children also occurs in the informal sector and in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. Government inspections have been unable to eliminate these forms of child labor (see Section 5), although an awareness campaign coupled with the establishment of hot lines for reporting child labor has led to an increase in the prosecutions regarding child labor violations by the Labor Department. The Labor Department reported 194 complaints regarding child labor in 2000, with 79 of these cases withdrawn due to lack of evidence or faulty complaints. The Department prosecuted 7 cases in 2000. In the first eight months of the year, the Labor Department reported 199 complaints, with 48 cases withdrawn and 40 prosecuted. According to the Ministry of Labor, there were 10 prosecutions for child labor (below the age of 14) during 2000. Under legislation dating from 1956, the maximum penalty for employing minors is about \$12 (1,000 rupees), with a maximum jail term of 6 months.

Internal trafficking in male children for the purpose of prostitution is a problem (see Sections 5 and 6.f.). Estimates of the number of child prostitutes range from 2,000 to 30,000; however, there are no reliable statistics. Although forced or bonded labor by persons of any age is prohibited by law, some rural children reportedly have served in debt bondage (see Sections 5 and 6.c.). The Government ratified ILO Convention 182 on the Worst Forms of Child Labor on March 1, 2001.

The LTTE continued to use high school-age children for work as cooks, messengers, and clerks. In some cases, the children reportedly help build fortifications. In the past, children as young as age 10 were said to be recruited and placed for 2 to 4 years in special schools that provided them with a mixture of LTTE ideology and formal education. The LTTE uses children as young as 13 years of age in battle, and children sometimes are recruited forcibly into the LTTE (see Section 5). In May 1999, the LTTE began a program of compulsory physical training, including mock military drills, for most of the population of the areas that it controls, including for schoolchildren and the aged. This LTTE program reportedly still functions. According to LTTE spokesmen, this work is meant to keep the population fit; however, it is believed widely that the training was established in order to gain tighter control over the population and to provide a base for recruiting fighters. Despite repeated claims to the contrary by the LTTE, there were credible reports that the LTTE continued to forcibly recruit

children throughout the year. Individuals or small groups of children intermittently turned themselves over to security forces or religious leaders saying they had escaped LTTE training camps throughout the year. During August and September, the LTTE handed over 85 children to UNICEF, stating that the children had volunteered to serve, but that the LTTE does not accept children.

e. Acceptable Conditions of Work

The Ministry of Labor effectively enforces the minimum wage law for large companies through routine inspections; however, staffing shortages prevent the department from effectively monitoring the informal sector. While there is no universal national minimum wage, approximately 40 wage boards set minimum wages and working conditions by sector and industry. In 2001, minimum wage rates averaged approximately \$29.38 (2,625 rupees) per month in industry, commerce, and the service sector. The rate was approximately \$1.38 (104.53 rupees) per day in agriculture. The minimum wage in the garment industry was \$25.73 (2,300 rupees) per month. These minimum wages are insufficient to provide a decent standard of living for a worker and the standard family of five, but the vast majority of families have more than one breadwinner.

Most permanent full-time workers are covered by laws that prohibit them from regularly working more than 45 hours per week (a 5 1/2-day workweek). Overtime is limited to 60 hours per month under a recent ruling. Labor organizers are concerned that the new legislation does not include a provision for overtime to be done with the consent of the worker. Such workers also receive 14 days of annual leave, 14 to 21 days of medical leave, and approximately 20 local holidays each year. Maternity leave is available for permanent and seasonal or part-time female workers. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors is inadequate to enforce compliance with the laws. Workers have the statutory right to remove themselves from situations that endanger their health, but many workers are unaware of, or indifferent to, health risks, and fear that they would lose their jobs if they removed themselves. Health and safety regulations do not meet international standards.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, Sri Lanka is a country of origin and destination for trafficked persons, primarily women and children for the purposes of forced labor, and possibly for sexual exploitation. Sri Lankan women travel to Middle Eastern countries to work as domestics and some have reported being forced into domestic servitude and sexual exploitation. Some Sri Lankan children are trafficked internally to work as domestics and in some cases for sexual exploitation. There were unconfirmed reports that boys were trafficked to the Middle East as camel jockeys. According to police reports, there has been a floating pool of approximately 200 foreign female sex workers in the country who may have been trafficked from the former Soviet Union, Thailand, and China.

Internal trafficking in male children is also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere (PEACE), a domestic NGO, estimates that in 2001 there were at least 5,000 male children between the ages of 8 and 15 years who are engaged as sex workers both at beach and mountain resorts. Some of these children are forced into prostitution by their parents or by organized crime (see Section 5). PEACE also reports that an additional 7,000 young men aged 15 to 18 years are self-employed prostitutes. Many organizations believe the PEACE numbers to be inflated.

On October 1, the Police opened an office to work as part of the NCPA in children's issues, including trafficking in children.

Penal Code amendments enacted in 1995 provide for penalties for trafficking in women including imprisonment for 2 to 20 years, and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years, and a fine.

The Government took action during 2001 to prepare a national plan to combat the trafficking of children. The project was part of a regional project funded by the ILO.

The country has a reputation as a destination for foreign pedophiles. Officials believe that approximately 30 percent of the clients are tourists and 70 percent are locals. The Government occasionally prosecuted foreign pedophiles, and there have been some convictions; however there were no such convictions during the year. Many

NGO's attribute the problem of child exploitation to a lack of law enforcement. There is evidence of continuing, but reduced, international interest in Sri Lankan children for the sex trade as evidenced in tourism by foreign pedophiles, and in Internet sites featuring child pornography involving the country's children.

End Text.

13. (U) Minimized considered.

WILLS